

BOUNDARY COMMISSION
ST. LOUIS COUNTY, MISSOURI
MEETING MINUTES

March 27, 2001

ROLL CALL

Commissioners Present: Matt Armstrong, Ted Armstrong, Jane Arnold, Bob Ford, Agnes Garino, Thomas Hayek, Dee Joyner, Greg Kloeppe, Ilene Ordower and Don Wojtkowski.

Commissioners Absent: Johnnie Spears

COMMISSION STAFF PRESENT:

Dan Krasnoff, Boundary Commission Executive Director
David Hamilton, Boundary Commission Legal Counsel

OTHERS PRESENT:

Lori Fiegel, St. Louis County Planning Department

Call TO ORDER

The meeting was called to order by Mr. Wojtkowski at 6:30 p.m. on March 27, 2001. The meeting was held at the offices of the Boundary Commission, 1516 S. Brentwood Boulevard, Brentwood, Missouri.

ROLL IS CALLED – QUORUM DECLARED

The roll was called and a quorum declared by Mr. Wojtkowski.

APPROVE AGENDA

Ms. Garino said a city attorney told her that an executive session could not be placed on the agenda unless a specific purpose was known. Mr. Hamilton said the reference to 610.021(1) specifically related to attorney/client privilege. The Attorney General recommended the specific language that referenced the appropriate reasons for executive sessions under state law. Mr. Hayek made a motion to approve the agenda. Ms. Ordower seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

APPROVE MINUTES

Mr. Ted Armstrong made a motion to approve the minutes from February 27, 2001. Mr. Kloeppe seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

PUBLIC COMMENT

Lori Fiegel, 41 S. Central Avenue, 5th Floor

Ms. Fiegel was representing the St. Louis County Planning Department. She said the County followed through on statements made at the map plan public hearings that the County would solicit input from residents in unincorporated areas regarding potential

annexations. The County held five public meetings at which subdivision trustees and other interested citizens were invited to provide input. Approximately 500-600 people attended the meetings. Ms. Fiegel said she hoped to provide a report of those meetings to the Commission at its April meeting. The County encouraged meeting attendees to obtain input from residents through surveys or petitions and report those results.

Ms. Fiegel said citizens were consistently concerned they would not find out about annexation proposals because the notification requirements in the statute and rules were limited. Ms. Fiegel said she was glad to see that issue was listed as an item on the evening's agenda.

Mr. Ted Armstrong asked Ms. Fiegel how those who attended the meetings were notified. Ms. Fiegel said the County kept a voluntary directory of subdivision trustees—approximately 4,000-5,000 people. The meetings were also posted in traditional ways. She also contacted those who attended the Commission's public hearings and those who contacted the St. Louis County Planning Department about annexation issues within previous six months. She said the aforementioned notification system worked well for the County's informal process. Ms. Fiegel said they did not send a letter to each household in unincorporated St. Louis County. Mr. Ted Armstrong said the notification process used by the County might be a good system for the Commission to use as well.

Ms. Garino asked if municipal representatives were notified of the meetings. Ms. Fiegel said they were not specifically invited but that the meetings were open public meetings and that she heard that some elected municipal officials might have attended. She said the Boundary Commission hearings were a venue for municipal representatives to speak and that was not the purpose of the County's meetings.

Mr. Wojtkowski asked if the meetings provided clarity for the County regarding the submission of plans of intent. Ms. Fiegel said for North County and South County there was clarity but there was less clarity for West County.

Mr. Wojtkowski asked the commissioners if a written report regarding St. Louis County's meetings would be appropriate. Mr. Ford asked what Mr. Wojtkowski meant by appropriate. Mr. Wojtkowski said he meant if the Commission felt comfortable reviewing feedback from the County's public hearings. Mr. Ford said anyone could send the Commission information and it was up to the Commission to evaluate that information. Ms. Garino asked if the municipalities had access to the County's list of trustees. Ms. Fiegel said they did because those lists were "public information." Mr. Matt Armstrong said the County's report would be public information. Ms. Fiegel said the County would report what subdivisions were invited to the meetings and the results of any information gathering those subdivisions engaged in after the meetings.

Mr. Ford asked Ms. Fiegel if the County was going to contact businesses in the unincorporated areas regarding potential annexation. Ms. Fiegel said they had not attempted to contact businesses, but instead focused on residential areas.

ANNOUNCEMENTS AND COMMUNICATIONS

Mr. Wojtkowski announced that Mr. Jim Booher had passed away during the previous couple of weeks. Mr. Ford said the notice was in *The Call* newspaper the previous week. Mr. Wojtkowski asked if anyone knew how long he had been ill. Ms. Garino said she knew he was ill and that he would be missed.

Mr. Krasnoff received a call from State Senator Anita Yeckel inquiring about the way ballot language for Boundary Commission elections were composed. Mr. Krasnoff told her the language was part of the Commission's *Summary of Decision* and standard language had developed over time. Mr. Krasnoff said he consulted Lori Fiegel from the St. Louis County Planning Department about the matter.

Mr. Krasnoff noted some map plan communication. The City of Overland and the City of St. Ann agreed to split their map plan boundaries at Midland Boulevard with Overland's map plan extending to the south and St. Ann's map plan extending to the north. Mr. Krasnoff also informed Overland they could not add Elmwood Park to the map plan because the state statute only allowed expansion of an amended map plan for minor, technical reasons.

STAFF REPORT

A. Web Site Development

Mr. Krasnoff reminded the Commission that the firm, REJIS, was originally to provide web site development services. Their written bid was approximately \$5,000.00. Mr. Krasnoff had received three other bids:

- Rose Design - \$8,000.00
- Gabriel Design & Consulting - \$2,100.00
- Moore Design - \$1,575.00

Mr. Krasnoff said he chose Moore Design for a number of reasons: they developed the web site for the Fairview Heights (government) and the Missouri Historical Society (non-profit); the Missouri Historical Society provided a positive reference and Moore Design and Consulting provided web hosting services themselves.

Mr. Krasnoff said the home page and proposal sections of the web site would be on the web by April 15, 2001.

Ms. Garino asked where Moore Design and Consulting was located and whom Mr. Krasnoff had spoken with at the Missouri Historic Society. Mr. Krasnoff said he thought the firm was located in the City of St. Louis. Mr. Krasnoff had spoken to Mr. Eric Sandweiss, who recommended he speak with the head of public relations. Mr. Krasnoff asked Ms. Garino if she had heard negative comments about Moore Design Group from those she knew at the Missouri Historical Society. Ms. Garino said she thought problems she heard about related to the Historical Society, not Moore Design Group.

Ms. Garino asked Mr. Krasnoff what the budget was to create the web site. Mr. Krasnoff said the budget to create the site was \$3,000.00.

Mr. Ted Armstrong asked if the Commission needed to authorize Mr. Krasnoff to proceed. Mr. Wojtkowski said he had been in contact with Mr. Krasnoff and considered web site development an administrative function. Mr. Ted Armstrong said he was comfortable with that but wanted to be sure he understood the process.

Ms. Garino asked Mr. Krasnoff if there was a monthly maintenance fee. Mr. Krasnoff said there was a monthly maintenance fee of approximately \$150.00. Mr. Krasnoff gave a brief description of each firm's capabilities and costs, both to create the web site and to maintain it.

Mr. Ted Armstrong made a motion for Mr. Krasnoff to hire Moore Design Group to create the Commission's web site per Mr. Krasnoff's recommendation. Commissioner Matt Armstrong seconded the motion. Voice Vote: Ayes, All. Nays, None. *The motion passed.*

B. Office Space

Mr. Krasnoff said that based on the previous Commission meeting, Mr. Wojtkowski had spoken with Mr. Rothman, the Commission's landlord, and communicated to him the Commission's interest in a one-year lease extension with two potential one-year options. Mr. Krasnoff wrote a letter to Mr. Rothman with the same request. Mr. Krasnoff said he was waiting for a correspondence from Mr. Rothman stating exact terms for the extension. Mr. Rothman had previously told Mr. Krasnoff that the lease rate would increase from \$1,125.00 per month to \$1,200.00 per month. Mr. Krasnoff said he heard nothing new from Mr. Pound, the Commission's agent.

Mr. Ted Armstrong said the Commission might find a better arrangement to move before Mr. Rothman's reply. Mr. Krasnoff said he thought that was unlikely. The sense of the Commission at the February meeting was to reject potential space in Clayton and pursue the extension.

Mr. Matt Armstrong asked what the rationale was for looking for space in Clayton, other than the location. Mr. Krasnoff said space in Clayton was close to the County Government Center, which he had to go to regularly; the public was used to attending to government business in Clayton and that new development near the current Commission office would create more traffic in the area.

Mr. Krasnoff said that Mr. Pound had looked for space in the vicinity of the current facility and found nothing available.

Mr. Wojtkowski said the new class "A" office space opening in the area might have a depressing effect on the office market and there might be more options for space next year. With the date for renewing the lease approaching it was wise to request a year-to-year extension from Mr. Rothman, instead of the three-year renewal called for in the current lease.

Mr. Ted Armstrong asked Mr. Wojtkowski why Mr. Rothman was amenable to such an extension. Mr. Wojtkowski said the current space was probably class "C" and Mr. Rothman was eager to retain the Boundary Commission as a tenant.

Mr. Kloeppe asked if they had discussed an escape clause if the Commission found space it preferred in the mean time. Mr. Wojtkowski said he thought that was too ambitious and he wanted to be fair with Mr. Rothman.

Mr. Matt Armstrong suggested moving to a different area of the County that was less expensive than Clayton. Various Commissioners suggested office space locations conveniently located near their place of work or residence. Mr. Krasnoff said he and Mr. Pound had discussed that advantages and disadvantages of some areas. He said highway access was crucial and Clayton had a great deal of parking capacity. He said it might be difficult for some commissioners to reach smaller commercial areas at rush hour in time for meetings.

Mr. Matt Armstrong asked if Mr. Pound was representing the Commission instead of the sellers. Chairman Wojtkowski said he was the Commission's agent and would receive his commission from the leaser, as was standard practice.

Ms. Garino asked if Mr. Rothman was given the impression the Commission was looking for new space. Mr. Wojtkowski said he had done that.

Mr. Ted Armstrong asked when the Commission would hear from Mr. Rothman. Mr. Krasnoff said he would be getting a letter in the next week. Mr. Ted Armstrong said it was in Mr. Rothman's interest to not respond until as close to May 31, 2001 as possible. He said it was the Commission's advantage to get the lease ironed out as soon as possible. Mr. Ted Armstrong encouraged Mr. Krasnoff to keep in close contact with Mr. Rothman regarding the lease.

Ms. Garino asked if this was the third lease with Mr. Rothman. Mr. Wojtkowski Chairman Wojtkowski said that was true.

Mr. Wojtkowski said he did not have the existing lease in front of him but that the Commission's obligation was to notify Mr. Rothman of the its intentions a certain number of days before the actual renewal date. The Commission had told Mr. Rothman it would renew on a year-to-year basis.

NEW BUSINESS

A. Proposal Communication

Mr. Krasnoff said there had not been much proposal communication. The City of Fenton was the only municipality to contact Mr. Krasnoff to say they were preparing a proposal. The City of Clayton called with general questions, but it was unclear whether or not they intended to actually file a proposal. The City of Ellisville requested a copy of the rules but said they were not preparing a proposal. As was stated at the previous Commission meeting, the city attorney for Moline Acres came in to look at previous proposals. An

attorney representing a private property owner near Florissant came in to look at proposals although she was aware her client could not submit a proposal to the Commission.

B. Boundary Commission Public Notice Practice

Mr. Wojtkowski said communication of the receipt of proposals was an important matter and that the web page would play an important role in public notification.

Mr. Wojtkowski asked Ms. Garino to confirm that the previous Boundary Commission required proposing agents to notify citizens in potential boundary change areas through mailings when they might be affected by a proposal. Ms. Garino said the Commission provided a notification and that was sent to the affected citizens. In a nutshell, it was the Commission's notification, but the submitting municipality paid for the cost. She suggested Mr. Krasnoff check the files or with Mr. Ramey to confirm that information. Mr. Krasnoff said he had already verified the information with Mr. Ramey.

Ms. Garino said the only other notification was in the Countian, with press releases to the *Post-Dispatch* and the *Suburban Journals*.

Mr. Wojtkowski asked if the Commission desired to maintain that practice—providing the submitting party labels and a notification and having them send it to those in the proposal area.

Mr. Matt Armstrong asked if that meant the Commission would generate the mailing labels and provided them to the proposing agent. Mr. Wojtkowski said that was what he meant.

Ms. Garino asked what the relationship was between the mailing and the \$1.00 per resident figure mentioned in the statute and rules. Mr. Wojtkowski said the Commission could send out the notification and use the funds in the statute to off set the costs.

Mr. Ford said no funds would be generated by an unincorporated area proposal. He asked if the Commission would incur those costs. Ms. Garino said the fee only applied to annexation proposals.

Mr. Krasnoff said the fee was to pay the cost of processing applications. Mr. Krasnoff said the County was responsible for funding the entire Commission and had no requirement to provide separate funds for processing established unincorporated area proposals.

Mr. Krasnoff said the issue was further complicated because there was no notification fee in the statute if an annexation area had no residents. He said in the past the County notified residents in proposed unincorporated zones. Ms. Fiegel said that was untrue.

Ms. Joyner asked how residents in the municipality who voted on the proposals were informed. Mr. Krasnoff said that was accomplished through the regular notification without mailing a separate notice to each house or voter.

Ms. Garino said the municipalities never balked at the notification in the past because they did not have to pay. Mr. Krasnoff said it was his understanding that under the previous Boundary Commission the municipalities paid for all aspects of the notification procedure. Ms. Garino said she meant they would balk at paying any cost above the \$1.00 stipulated in the statute.

Mr. Matt Armstrong asked who paid to print the notice. Commissioner Garino said the Commission paid to print the notice. Mr. Matt Armstrong said the Commission would have to spend more than \$1.00 to per person to print and deliver the notice to residents in proposal areas. Mr. Ford said the municipalities would “low ball” the number of residents in proposal areas. Ms. Garino said the number of residents in the area would have to be a legitimate figure based upon “real” numbers.

Mr. Krasnoff said that under the previous Boundary Commission the notice was sent only to registered voters, not to all residents. He suggested sending a post card instead of a letter providing notice of the public hearing in order to lower the cost.

Mr. Matt Armstrong said the print charge and the mailing would still cost more than the amount of funds supplied by the municipalities.

Ms. Arnold said a letter that explained the process would be worth any cost over a simple post card. Commissioner Garino asked what the Commission’s budget was for postage and mailing. Mr. Krasnoff said that figure was \$1,500.00.

Mr. Hamilton said that as part of the certification for filing an annexation request the proposing agent had to declare it would bear all costs to the Boundary Commission related to publications, notifications, copies, etc. If the proposing agent was a municipality it was required to certify it had paid the application fee and would pay any expenses to the Commission in excess of such allocation. He said the aforementioned rule did not necessarily deal with the concern regarding statutory or regulatory authority for requiring notification. If the Commission desired it could expand its authority for the extra notification.

Mr. Matt Armstrong was concerned that bulk mail would not be received in a timely manner. Mr. Ford said sending the information by bulk mail would not guarantee it would be received. Mr. Matt Armstrong said bulk mail “sat around” until there was time to mail it and have it delivered.

Mr. Wojtkowski said the notification was of a public hearing, not of an election. Mr. Matt Armstrong was still concerned that the bulk mail would not arrive before the date of the public hearing.

Ms. Garino said there was no guarantee the mailing would be received in a timely manner but that it was likely that it would. Mr. Krasnoff said the time between the receipt of a proposal and the public hearing was approximately one month—ample time to send a bulk mailing to reach those in an effected area.

Mr. Wojtkowski said it would cost less than \$1.00 per letter. Mr. Matt Armstrong said the \$1.00 fee was in place to cover all aspects of processing the proposal, not just the mailing. Mr. Matt Armstrong said the proposing agent, whether it was the County government or a municipality, should have had to bear the total cost of processing the proposal.

Mr. Ford said he understood the section of the rules read by Mr. Hamilton to mean the proposing agent should bear all costs of processing the proposal, whether it was more or less than the \$1.00 per resident figure stated in the statute and rules.

Mr. Hamilton said in his opinion Mr. Ford's understanding of the rule was correct.

Ms. Arnold said the Commission should prepare what was essentially an itemized bill, to be provided to the proposing agents for costs of processing proposals.

Mr. Matt Armstrong said the municipality should pay the bill and be reimbursed by the Commission for its \$1.00 per resident figure.

Mr. Wojtkowski said the Commission had some flexibility in dealing with the issue. The fundamental question was how best to notify the public. In the past the Commission had decided that notifying each voter was an appropriate methodology. Sending the notification to all registered voters would be overkill. Sending the notification to each household was another alternative. Mailing labels could be bought and sent on a per household basis. That practice would, theoretically, cut costs in half. The Commission would communicate to the municipalities that the \$1.00 per resident should be more than enough to send notification, if it was not, however, the city or village would be billed for the cost. If the \$1.00 was too much the Commission should accept the funds or refund them back to St. Louis County government.

Mr. Wojtkowski said notification should be on a per household basis in the area to be effected by the proposal. The municipalities did a good job of getting the word out to their own residents.

Mr. Krasnoff was instructed to find out the potential cost of notification. Ms. Fiegel said it was \$.15 postage for standard mail, letter size, bulk rate. The County provided an electronic mailing list to a mail house that sorted the information by computer. They required a check before they would send out the mailing. The turn around time was typically three or four days.

Ms. Garino asked if households that were sent the notice should only be those of registered voters. Mr. Ford said that information should be available from the County.

Mr. Wojtkowski said the mail houses should have been able to provide the mailing lists.
Ms. Ordower said there were firms that sold the lists and firms that sent the mailings.
Ms. Fiegel said the County could provide the list.

Mr. Krasnoff said he was uneasy in only notifying the households of registered voters.
Mr. Ford said often people became involved in politics based on a hot button issue.

Mr. Hamilton said the Boundary Commission statute required notification to the County clerk, the city or village of each municipality and to any political subdivision that would be materially effected by the proposal. The statute said the cost should be borne by the proposing agent. His concern was that household notification was not part of the statute and a proposing agent might balk at paying the added fee. Mr. Hamilton also stated that certification was required with an annexation proposal from the submitting authority along with a legal opinion stating that all statutory requirements had been fulfilled.

Ms. Ordower asked Mr. Hamilton to re-read all the notifications he had previously mentioned. Mr. Hamilton quoted from RSMo 72.403.2:

Within twenty-one days of receipt of such proposal, the commission shall also mail written notification of such proposal and public hearing date to the county clerk, and to the city or village clerk of each municipality or village, and to any other political subdivision which, in the opinion of the commission, is materially effected by the proposal. The costs of publication and notification shall be borne by the proposing agent.

Mr. Ted Armstrong asked if the Commission's rules were in accordance with the statute.
Mr. Hamilton said they were.

Mr. Hamilton then said the Commission's rules required that proposing agents to provide:

Certification declaring that the proposing agent would bear all costs of the Boundary Commission relating to publications, notifications, copies, etc. and in the event the proposing agent is a municipality, said certification shall indicate that the municipality will pay the application fee and will pay any expenses incurred by the Commission in excess of such application fee.

Mr. Hamilton said that, in the context of what the statute said, there was one cost, while the potential notification by household would entail a substantially different amount.

Mr. Matt Armstrong said the statute essentially required three notification letters.

Ms. Ordower said the statute and rules said the Commission could send notification to political subdivisions it deemed appropriate. Mr. Matt Armstrong said that referred to political subdivisions and did not include individual households.

Mr. Wojtkowski said the Commission had the luxury of knowing in advance how much money was presented from the municipality for notification. He said Mr. Krasnoff should research the subject and report on projected costs for mass mailings. At that point the Commission could act on the matter based on “real” knowledge of potential costs.

Mr. Matt Armstrong said based on his knowledge of class-action cases that research showed people discarded bulk class material. He said whatever notice was sent, should state on the front, that, **THIS HAS AN IMPORTANT INFORMATION THAT MAY EFFECT YOUR RIGHTS**, or, **THIS HAS IMPORTANT INFORMATION THAT MAY EFFECT YOUR PROPERTY RIGHTS**. The words needed to make clear that the information was a notice and not a piece of “junk mail.”

Mr. Wojtkowski said that agenda item would be revisited at the next meeting.

Mr. Ford asked if Mr. Booher’s passing might effect his group’s lawsuit. Mr. Hamilton said the lawsuit had been dropped, but that the plaintiff reserved the right to resurrect the legal action. Ms. Garino asked if Mr. Booher was the only plaintiff. Mr. Hamilton said he was not the only plaintiff.

Mr. Ford made a motion to adjourn. Ms. Joyner seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

The meeting was adjourned.

Respectfully submitted,

Dan Krasnoff

Approved: April 24, 2001